

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON SCOTT HOUNIHAN,

Plaintiff,

v.

JOSE C. VILLASENOR,

Defendant.

No. 1:23-cv-00163-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT, WITHOUT
PREJUDICE

(ECF No. 25)

Plaintiff Jason Scott Hounihan is a prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's Eighth Amendment sexual assault claim against Defendant Villasenor. (ECF No. 5). The Court has not yet opened discovery and is waiting for the parties to file their scheduling and discovery statements before entering a case schedule. (ECF No. 23).

On May 10, 2023, Plaintiff submitted a filing that included a motion for summary judgment. (ECF No. 11). The Court denied the motion for summary judgment as premature and "without prejudice to Plaintiff re-filing the motion in compliance with this Court's local rules and after discovery has been opened." (ECF No. 12, p. 2).

Now before the Court is Plaintiff's "renewed" motion for summary judgment. (ECF No. 25, p. 1) (alternation to spelling). The Court will deny Plaintiff's renewed motion, without prejudice. Contrary to the Court's prior order, Plaintiff has renewed his motion for summary

1 judgment despite discovery not having yet opened. Moreover, Plaintiff's motion does not comply
2 with this Court's Local Rules. Under Local Rule 260(a), "[e]ach motion for summary judgment
3 or summary adjudication shall be accompanied by a 'Statement of Undisputed Facts' that shall
4 enumerate discretely each of the specific material facts relied upon in support of the motion and
5 cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission,
6 or other document relied upon to establish that fact. The moving party shall be responsible for the
7 filing of all evidentiary documents cited in the moving papers." However, Plaintiff has failed to
8 file a "Statement of Undisputed Facts."

9 Accordingly, IT IS ORDERED that Plaintiff's renewed motion for summary judgment
10 (ECF No. 25) is denied, without prejudice, to Plaintiff re-filing the motion in compliance with
11 this Court's Local Rules and after discovery has been opened.

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13 IT IS SO ORDERED.

14 Dated: July 20, 2023

/s/ Eric P. Gray
15 UNITED STATES MAGISTRATE JUDGE
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